

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A22-0916**

State of Minnesota,  
Respondent,

vs.

Lance J Walters,  
Appellant.

**Filed May 22, 2023  
Affirmed  
Segal, Chief Judge**

Freeborn County District Court  
File No. 24-CR-20-942

Keith Ellison, Attorney General, St. Paul, Minnesota; and

David J. Walker, Freeborn County Attorney, Abigail H. Lambert, Assistant County Attorney, Albert Lea, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Anders J. Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Segal, Chief Judge; and Jesson, Judge.

**NONPRECEDENTIAL OPINION**

**SEGAL**, Chief Judge

Appellant challenges his convictions for domestic assault and first-degree criminal damage to property, arguing that the district court abused its discretion by admitting as

relationship evidence his two prior convictions for violations of a domestic-abuse no-contact order (DANCO) against a different victim. We affirm.

## **FACTS**

This appeal arises out of appellant Lance Walters' convictions for domestic assault against his ex-wife, B.K., and for first-degree criminal damage to property. Walters and B.K. were separated at the time of the offenses, but were not yet divorced. B.K., however, had started seeing another man, C.S. On the date of the offenses, July 2, 2020, B.K. was inside C.S.'s home when she heard her car alarm go off. She looked outside and saw Walters hitting and kicking her car. B.K. later testified that she ran outside to try to get Walters to leave, but "[h]e started yelling at [her] and ran at [her] and started grabbing . . . [her] hair and dragging [her] across the lawn and threw [her] up against . . . the back window of [her] car . . . ." He then "started choking [her] and spitting on [her] and calling [her] a 'cheating whore.'" Walters also hit B.K. with a closed fist near her jawline.

B.K. testified that she was on the ground crying, "but [Walters] came back and picked [her] up by [her] hair again. And someone drove by and said that they were going to call the cops, and he let [her] go and took off to the middle of the street where a car came and picked him up." C.S. called 911, but the vehicle drove away with Walters; Walters was not present when a police officer arrived at C.S.'s house.

The responding officer interviewed B.K. and C.S. and took photographs of B.K.'s injuries and the damage to her vehicle. B.K. refused medical attention, informing the officer that she had endured assaults by Walters in the past.

Respondent State of Minnesota charged Walters with first-degree criminal damage to property and with domestic assault under Minn. Stat. § 609.2242, subd. 4 (2018). The domestic-assault charge was enhanced to a felony offense based on Walters' prior qualified domestic violence-related convictions. The prior convictions included two convictions in 2015 for violations of a DANCO involving a different victim, not B.K. Walters stipulated, before trial, that he had the requisite prior qualifying convictions to justify the enhancement of the domestic-assault charge.

The state moved, prior to trial, to admit relationship evidence, which included prior domestic conduct against B.K. and Walters' 2015 convictions for DANCO violations against a different victim. The district court allowed both B.K.'s testimony and the certified records of the DANCO-violation convictions. In response to Walters' objection to allowing the admission of the 2015 DANCO-violation convictions, the court reasoned that these convictions "address[] exactly [why] our legislature decided to create a legislative exception to the Rules of Evidence, and that is relationship evidence. And so [the court] will permit it for the sole purpose of relationship evidence only."

At trial, the jury heard testimony from B.K., C.S., and the responding officer. It also received the photographs of B.K. and her vehicle taken by the officer at the scene, the officer's bodycam video, and the recording of C.S.'s 911 call. The state offered the DANCO-violations evidence, laying a foundation by asking the responding officer to define a DANCO, along with how and why DANCOs are put in place. The state did not include the facts underlying Walters' DANCO-violation convictions, but only the conviction records themselves. The exhibit for the DANCO-violation convictions was

redacted so that the jury only saw the two convictions, and did not see the counts that were dismissed, the severity level of the offenses, or the resulting sentences.

The jury found Walters guilty of both domestic assault and first-degree criminal damage to property. The district court imposed a 32-month sentence for the domestic-assault conviction.<sup>1</sup>

## DECISION

Walters contends that the district court committed reversible error by admitting as relationship evidence his two prior convictions for DANCO violations against a different victim. He argues that the prejudice caused by the admission of this evidence substantially outweighed its probative value and influenced the jury's decision. He asserts that his convictions must therefore be reversed, and his case remanded for a new trial.

Evidence of prior criminal offenses unrelated to the crime for which a person is on trial is generally inadmissible. *State v. Spreigl*, 139 N.W.2d 167, 169 (Minn. 1965). An exception exists for “[e]vidence of domestic conduct by the accused against the victim of domestic conduct, or against other family or household members, . . . unless the probative value is substantially outweighed by the danger of unfair prejudice.” Minn. Stat. § 634.20 (2022); *see also State v. McCoy*, 682 N.W.2d 153, 161 (Minn. 2004) (adopting Minn. Stat. § 634.20 as a rule of evidence). “Domestic conduct” includes “evidence of domestic

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<sup>1</sup> The district court did not impose a sentence for the property-damage conviction based on the state's agreement that the facts underlying that conviction arose out of the same behavioral incident as the domestic-assault conviction. *See* Minn. Stat. § 609.035, subd. 1 (2018) (prohibiting, subject to exceptions, the imposition of multiple sentences for offenses committed as part of a single behavioral incident).

abuse” and “violation[s] of a domestic abuse no contact order.” Minn. Stat. § 634.20. And “family or household members” includes “spouses and former spouses” and “persons who are presently residing together or who have resided together in the past.” Minn. Stat. § 518B.01, subd. 2(b) (2022). This evidence “is commonly referred to as relationship evidence.” *State v. Matthews*, 779 N.W.2d 543, 549 (Minn. 2010).

We review the admission of relationship evidence for an abuse of discretion. *Id.* at 553. The appellant “must prove that the admission of evidence was erroneous and prejudicial.” *State v. Loving*, 775 N.W.2d 872, 879 (Minn. 2009). Appellate courts “will reverse the district court’s ruling if the error substantially influenced the jury’s decision.” *Id.*

### ***Probative Value***

Walters contends that the evidence of his DANCO-violation convictions had minimal probative value because (1) “the victim of the [DANCO] violations was not the victim of the charged offense in this case” and therefore “evidence related to the [DANCO] violations was not necessary to illuminate the history of the relationship between [Walters] and B.K.”; and (2) “this case does not present” any “unique prosecution challenges” so there was no need for the evidence. We acknowledge that the probative value is not particularly great in this case but, as the district court noted, the evidence showing Walters’ convictions for DANCO violations “does address something independent of simply the element [of the charged offense] that [Walters] stipulated to”—that he had previous qualifying domestic violence-related convictions.

As to Walters’ argument that the DANCO-violations evidence involved a different victim, this court has stated:

[T]he rationale for admitting relationship evidence under section 634.20 is to illuminate the relationship between the defendant and the alleged victim and to put the alleged crime in the context of that relationship. Obviously, evidence showing how a defendant treats his family or household members, such as his former spouses or other girlfriends, sheds light on how the defendant interacts with those close to him, which in turn suggests how the defendant may interact with the victim.

*State v. Valentine*, 787 N.W.2d 630, 637 (Minn. App. 2010) (citation omitted), *rev. denied* (Minn. Nov. 16, 2010). Based on this rationale, this court concluded in *Valentine* that the district court did not abuse its discretion by admitting evidence of the appellant’s abuse of another girlfriend to show “how the defendant interacts with those close to him.” *Id.* at 637-38.

As in *Valentine*, evidence of Walters’ prior convictions for violating a DANCO involving a different victim is probative because it “sheds light on how [Walters] interacts with those close to him.” *Id.* at 637. Not only do the prior DANCO violations show that Walters had engaged in conduct such as domestic abuse, harassment, or stalking against a prior household member, but the DANCO violations were probative to demonstrate his failure to refrain from contacting that household member—even when legally prohibited from doing so. *See* Minn. Stat. § 629.75, subd. 1 (2022) (describing circumstances under which a DANCO is issued). Here, B.K. testified that while she and Walters were not yet divorced, she had separated from him and had begun dating C.S. And she told the responding officer that Walters “normally just kinda hunts [her] down, and wherever [she

is], he kinda just beats the crap outta [her].” Walters’ prior DANCO violations were thus probative of how he may react to being cut off from a domestic relationship.

Additionally, despite Walters’ argument that this case did not present unique prosecutorial challenges, the evidence had probative value because it bolstered B.K.’s and C.S.’s credibility. *See State v. Lindsey*, 755 N.W.2d 752, 757 (Minn. App. 2008) (stating that relationship evidence “had significant probative value in assisting the jury to judge witness credibility”), *rev. denied* (Minn. Oct. 29, 2008). Though law enforcement did receive one other call likely reporting the same incident, the responding officer only interviewed B.K. and C.S., and the state’s only witnesses at trial were B.K., C.S., and the responding officer. The DANCO-violations evidence therefore had probative value in aiding the jury in assessing the credibility of the witnesses describing Walters’ behavior.

### ***Prejudice***

Walters next argues that the danger of unfair prejudice substantially outweighed the probative value of the DANCO-violations evidence. “When balancing the probative value against the potential prejudice, unfair prejudice is not merely damaging evidence, even severely damaging evidence; rather, unfair prejudice is evidence that persuades by illegitimate means, giving one party an unfair advantage.” *State v. Bell*, 719 N.W.2d 635, 641 (Minn. 2006) (quotation omitted). Walters maintains that the admitted relationship evidence here was unfairly prejudicial in part because the district court failed to provide a cautionary instruction.<sup>2</sup>

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<sup>2</sup> Walters also contends that the evidence was unfairly prejudicial because it involved “irrelevant conduct occurring years earlier against another person.” But this argument goes

This court has stated that “[a] district court’s limiting instruction lessens the probability of undue weight being given by the jury to the evidence.” *State v. Ware*, 856 N.W.2d 719, 729 (Minn. App. 2014) (quotation omitted). Here, the district court gave a specific cautionary instruction prior to B.K.’s testimony regarding Walters’ prior assaults against her but did not do so directly before the publication of the certified copy of Walters’ DANCO-violation convictions. However, we are not convinced that the lack of instruction immediately prior to the publication of the DANCO-violation convictions gave the state an unfair advantage because the district court took several other measures to mitigate prejudicial impact.

For example, before closing arguments, the court repeated the limiting instruction it had provided prior to B.K.’s testimony regarding other instances of alleged domestic conduct. The district court cautioned the jury that “[t]he defendant is not to be tried for and may not be convicted of any behavior other than the charged offenses,” and that “to convict the defendant on the basis of conduct prior to July 2, 2020 . . . might result in unjust double punishment.”

As another mitigating measure, the DANCO-violations evidence only included the record of the convictions and did not include any of the underlying facts. In laying the foundation for the exhibit, the state asked the officer to provide basic information, such as what a DANCO is and why a DANCO is put in place. And before the jury received the

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again to whether the relationship evidence was probative. And as we concluded above, the relationship evidence was probative in this case even though the DANCO violations occurred in 2015 against a different victim.



DANCO-violations exhibit, the district court had it redacted so that the jury only saw the two convictions, and did not see the counts that were dismissed, the severity level of the offenses, or the resulting sentences.

Considering the precautions taken by the district court to limit the prejudicial impact of the DANCO-violations evidence, we conclude that the evidence did not “persuade[] by illegitimate means, giving one party an unfair advantage.” *Bell*, 719 N.W.2d at 641 (quotation omitted). We therefore discern no abuse of discretion by the district court in allowing the DANCO-violations evidence.

**Affirmed.**